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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/627,089	07/25/2003	Todd Duke	TD-1-am	3145
7590	12/15/2005		EXAMINER	
Michael I. Kroll 171 Stillwell Lane Syosset, NY 11791				MATTHEWS, TERRELL HOWARD
		ART UNIT	PAPER NUMBER	
		3654		

DATE MAILED: 12/15/2005

Please find below and/or attached an Office communication concerning this application or proceeding.

<b>Office Action Summary</b>	<b>Application No.</b>	<b>Applicant(s)</b>	
	10/627,089	DUKE, TODD	
	Examiner Terrell H. Matthews	Art Unit 3654	

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

#### Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

#### Status

- 1) Responsive to communication(s) filed on \_\_\_\_\_.
- 2a) This action is **FINAL**.                                    2b) This action is non-final.
- 3) Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

#### Disposition of Claims

- 4) Claim(s) 1-10 is/are pending in the application.
  - 4a) Of the above claim(s) \_\_\_\_\_ is/are withdrawn from consideration.
- 5) Claim(s) \_\_\_\_\_ is/are allowed.
- 6) Claim(s) 1-10 is/are rejected.
- 7) Claim(s) \_\_\_\_\_ is/are objected to.
- 8) Claim(s) \_\_\_\_\_ are subject to restriction and/or election requirement.

#### Application Papers

- 9) The specification is objected to by the Examiner.
- 10) The drawing(s) filed on \_\_\_\_\_ is/are: a) accepted or b) objected to by the Examiner.
 

Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).

Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

#### Priority under 35 U.S.C. § 119

- 12) Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
  - a) All    b) Some \* c) None of:
    1. Certified copies of the priority documents have been received.
    2. Certified copies of the priority documents have been received in Application No. \_\_\_\_\_.
    3. Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

\* See the attached detailed Office action for a list of the certified copies not received.

#### Attachment(s)

1) <input checked="" type="checkbox"/> Notice of References Cited (PTO-892)	4) <input type="checkbox"/> Interview Summary (PTO-413)
2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948)	Paper No(s)/Mail Date. _____.
3) <input type="checkbox"/> Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08) Paper No(s)/Mail Date _____.	5) <input type="checkbox"/> Notice of Informal Patent Application (PTO-152)
	6) <input type="checkbox"/> Other: _____.

## **DETAILED ACTION**

### ***Claim Objections***

Claim 4 is objected to under 37 CFR 1.75(c), as being of improper dependent form for failing to further limit the subject matter of a previous claim. Applicant is required to cancel the claim(s), or amend the claim(s) to place the claim(s) in proper dependent form, or rewrite the claim(s) in independent form. More specifically claim 4 recites having a cantilevered bracket, which is previously disclosed in claim 2.

### ***Claim Rejections - 35 USC § 112***

The following is a quotation of the second paragraph of 35 U.S.C. 112:

The specification shall conclude with one or more claims particularly pointing out and distinctly claiming the subject matter, which the applicant regards as his invention.

Claims 1-10 are rejected under 35 U.S.C. 112, second paragraph, as being indefinite for failing to particularly point out and distinctly claim the subject matter which applicant regards as the invention. The term "extending substantially there above" in claim 1 is a relative term, which renders the claim indefinite. The term "extending substantially there above" is not defined by the claim, the specification does not provide a standard for ascertaining the requisite degree, and one of ordinary skill in the art would not be reasonably apprised of the scope of the invention. More specifically, it is unclear as to what qualifies as extending substantially there above.

***Claim Rejections - 35 USC § 102***

The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(b) the invention was patented or described in a printed publication in this or a foreign country or in public use or on sale in this country, more than one year prior to the date of application for patent in the United States.

Claims 1-2, 10 are rejected under 35 U.S.C. 102(b) as being anticipated by Field (4574614).

Referring to claims 1. Field discloses an “Apparatus For Repairing And Straightening Vehicles” as claimed. See Figs. 1-20 and respective portions of the specification. Field further discloses two parallel transverse assemblies (252) comprising two spaced apart parallel crossbeams (276) with four sides, a pair of end plates (258, 259) fastened to the first ends of the crossbeams and the other fastened to the second end of the crossbeam to maintain a constant spaced apart relation while forming a solid connection between the two crossbeams, a transverse channel formed by the space between the crossbeams (See Fig. 10), a pair of opposing frame anchor assemblies (290) slidably disposed within the transverse channel and resting on top sides of the crossbeams and extending substantially thereabove enabling the frame anchor assemblies to be selectively positioned along the longitudinal axis of the

crossbeams to accommodate the width of the frame of the vehicle to be raised and to bear the weight thereof (See Col. 8 l. 32 – Col 9 l. 22 & Fig. 10).

Referring to claim 2. Field discloses the invention as disclosed above.

Furthermore Field discloses a substantially horizontal bearing plate (278) integral with the frame anchor wherein the bearing plate is seated on top side of the crossbeam to maintain a vertical position of the frame anchor assembly even when under a load and a means (282) for securing the frame anchor assembly to prevent lateral movement thereof along the longitudinal axis of the treadway and discloses that teeth elements (298) of first jaw (294) engage rocker panel (254) of the vehicle (See Col. 9 l. 15-17 & Fig. 2)

Referring to claim 10. Field discloses a that the end plates (259) has a retaining flange (264) extending perpendicularly from the top portion thereof to rest on the frame rack to relieve pressure on the bolts to prevent them from shearing.

### ***Claim Rejections - 35 USC § 103***

The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negatived by the manner in which the invention was made.

Claim 9 is rejected under 35 U.S.C. 103(a) as being unpatentable over Fields.

Referring to claim 9. Fields does not disclose that the treadway includes a space element medially positioned within the transverse channel and communicating between crossbeams. It would have been obvious to a person of ordinary skill in the art at the time of the invention to modify the apparatus of Fields and include a spacer element though so that the width between crossbeams could be set with enough room for the frame anchors to be positioned but to remain stabilized as well.

### ***Allowable Subject Matter***

Claims 3-8 would be allowable if rewritten or amended to overcome the rejection(s) under 35 U.S.C. 112, 2nd paragraph, set forth in this Office action.

### ***Conclusion***

The prior art made of record and not relied upon is considered pertinent to applicant's disclosure.

Mabry U.S. Patent No. 6471009 discloses a "Universal Saddle for a Lift" comprising a base, crossbeams, a transverse channel, sliding plates and a frame anchor assembly.

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Terrell H. Matthews whose telephone number is (571) 272-5929. The examiner can normally be reached on M-F 8am - 4:30pm.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Kathy Matecki can be reached on (571) 272-6951. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).

THM

*Kathy Matecki*  
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